IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.330 of 2003
Date of decision: 07.08.2013.

Raj Mal ..Petitioner

Versus

State of Haryana ..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Ms. Mannu Chaudhary, Advocate
for the petitioner.

Mr. Rajat Mor, AAG, Haryana
for the respondent – State.

Daya Chaudhary, J.

The present revision petition has been filed against judgment of conviction dated 03.12.1999 passed by Chief Judicial Magistrate, Gurgaon vide which the petitioner was held guilty for offence under Section 7 which is punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 as well as judgment of Additional Sessions Judge, Gurgaon, vide which, the judgment of conviction and order of sentence passed by the trial Court has been upheld.

Briefly the facts of the case are that on 10.10.1991, Food Inspector-Shri Daya Shankar was present near Shankar Market, Old Railway Road, Gurgaon and he intercepted the petitioner-accused,

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who was having two drums of milk containing 30 litres of mixed milk in his possession for public sale. A sample was demanded by giving a notice in writing and purchased 750 ml milk on payment. The sample was divided into three equal parts and bottled in three dry and clean empty bottles. The preservative was added and bottles were sealed. One sealed bottle was sent to Public Analyst, Haryana, Karnal for analysis on 10.10.1991 and the remaining two bottles were deposited with LHA. On receipt of report, the sample was found to be having milk fat 4% and milk solids not fat 6.5%, which was found deficient of the minimum prescribed standards of 4.5% and similarly, milk solids were also found deficient of minimum prescribed standards of 8.5%.

A complaint was filed, which was tried as a warrant case. On appreciation of evidence, the trial Court convicted the petitioner and sentenced for the said offence to undergo RI for six months and to pay a fine of ₹1,000/- vide judgment dated 03/04.12.1999.

Thereafter, the judgment of trial Court was challenged by the petitioner before the Court of Additional Sessions Judge, Gurgaon, which was dismissed and judgment of trial Court was upheld on 07.02.2003.

After losing before two Courts, the present revision petition has been filed to challenge the judgment of conviction passed by both the Courts below.

Learned counsel for the petitioner submits that the

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petitioner has faced the agony of trial since institution of complaint i.e., 11.12.1991 and he is the only bread winner of his family. He has a large family to support. There is none else to look after his family. Learned counsel for the petitioner prays for taking lenient view keeping in view the undergone period of 1 month and 14 days against total sentence of 6 months. Learned counsel for the petitioner has also relied upon the judgments of this Court in ***Risala vs. State of Haryana, 2008(2) RCR (Criminal) 239, Ved Parkash Bathla vs. State of Haryana and another, 2010 (1) RCR (Criminal) 1, Satish Kumar vs. Union Territory, Chandigarh, 2009(3) RCR (Criminal) 325*** as well as judgment of Hon'ble the Supreme Court in ***Nand Lal vs. State of Uttarakhand & Anr., 2010 (2) RCR (Criminal) 581***.

Learned State counsel has not disputed the custody period and other submissions made by learned counsel for the petitioner.

After hearing arguments of learned counsel for the parties and on the basis of totality of circumstances and also the prayer made by learned counsel for the petitioner that the petitioner is facing agony of trial since 1991 and he is only bread winner of the family; and also the fact that he is having no criminal background, the request is accepted to the extent that conviction of the petitioner under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act is upheld and sentence is reduced to the period already undergone by

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him. With this modification of sentence, the present revision petition is disposed of as under the similar circumstances, in some of the judgments cited above i.e., **Risala's case (supra), Ved Parkash Bathla's case (supra), Satish Kumar's case (supra)** and **Nand Lal's case (supra),** the sentence of the accused has been reduced to the period already undergone.

07.08.2013 **(DAYA CHAUDHARY)**
neetu **JUDGE**

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